

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

COMANCHE NATION, OKLAHOMA,)
vs.)
Plaintiff,) Case No. CIV-05-328-F
)
UNITED STATES OF AMERICA; et al,)
vs.)
Defendants.)

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION
STAYING AGENCY ACTION PENDING REVIEW**

COMES NOW the Plaintiff, Comanche Nation, Oklahoma ("Comanche Nation"), pursuant to Fed. R. Civ. P. 65, and moves this Court to enter a Temporary Restraining Order pending a hearing on Plaintiff's Motion for Preliminary Injunction and moves this Court to enter a Preliminary Injunction to prevent irreparable harm and to preserve the status quo pending resolution of the Comanche Nation's claims concerning the unlawful abrogation of its Treaty-reserved jurisdiction over a parcel of land identified as Comanche Allotment 2329 in Comanche County, Oklahoma, more particularly described as follows:

Beginning at a point 544.5 feet South of the Northeast corner of the NW 1/4 Section 33, Township 2 North, Range 11 West of the I.M., Comanche County, Oklahoma, thence West a distance of 200 feet, thence South a distance of 115.5 feet, then East a distance of 200 feet, thence North a distance of 115.5 feet, to the point of beginning.

Plaintiff states for its cause as follows:

1. Unless enjoined, Defendants will likely approve and publish a compact to permit class III gaming on Comanche Allotment 2329 in violation of federal law and in derogation of Comanche Nation jurisdiction and law.
2. As more fully appears from the Complaint and Brief filed in support of this motion, Plaintiff has no plain and adequate remedy at law.
3. Unless Defendants are immediately enjoined pending final resolution of this action, Plaintiff will be irreparably damaged.

The undersigned counsel hereby certifies that he attempted to provide notice of this Motion for Temporary Restraining Order to counsel for Defendants by contacting Steve Mullins, Assistant U.S. Attorney for Western District of Oklahoma by telephone at the following telephone number (405) 553-8700 at the following time(s) 3:45 p.m. on March 31, 2005. A copy of this motion and the accompanying documents was sent to Steve Mullins by telefax at 3:55 p.m. on March 31, 2005 to the following fax number (405) 553-8888. A copy of this motion and the accompanying documents was sent to Alberto Gonzales, Attorney General, U.S. Department of Justice by telefax at 3:55 p.m. on March 31, 2005 to the following fax number (202) 307-2825, and to Gale A. Norton, Secretary of the Interior by telefax at 3:55 p.m. on March 31, 2005 to the following fax number (202) 208-6956, and to James Cason, Assistant Secretary of the Department of the Interior by telefax at 3:55 p.m. on March 31, 2005 to the following fax number (202) 208-6956.

Plaintiff further moves for a waiver of security required under Fed. R. Civ. Pro. 65(c), or for a nominal security, on the grounds set forth in the accompanying Plaintiff 's Memorandum of Points and Authorities in Support of Temporary Restraining Order, that Defendants will suffer no harm by being restrained and enjoined per the terms of the Temporary Restraining Order.

WHEREFORE, Plaintiff requests that this Court:

1. Issue a Temporary Restraining Order that enjoins the United States, the Secretary of Interior, and the Assistant Secretary for Indian Affairs, and their successors in office, from:
 - a. Approving any class III gaming compact under the Indian Gaming Regulatory Act for gaming on Comanche Allotment 2329 unless such gaming is to be conducted with the consent of the Comanche Nation and consistent with the relevant provisions of Comanche Nation law until the Court rules on Plaintiff's Motion for Preliminary Injunction; and,
 - b. Publishing in the Federal Register the class III gaming compact (whether approved or deemed approved by the Secretary of the Interior) between the State of Oklahoma and the Fort Sill Apache Tribe of Oklahoma effective until the Court rules on Plaintiff's Motion for Preliminary Injunction; and
2. Issue such Temporary Restraining Order without hearing on Thursday, March 31, 2005, and schedule a hearing to be set as soon as practicable thereafter; or

3. Alternatively to paragraph 2, set a time on Thursday, March 31, 2005, to conduct a hearing on the requested Temporary Restraining Order in the event any of the Defendants, through the U.S. Attorney, object to the entry of such Temporary Restraining Order; and

4. Allow counsel for Defendants, if they so choose, to participate in any hearing regarding such Temporary Restraining Order by telephone; and

5. Set forth a specific date and time, by agreement of the parties or upon the conclusion of the hearing on the Temporary Restraining Order, for a full and complete hearing on Plaintiff's Motion for Preliminary Injunction after allowing a sufficient period of time to conduct discovery; and

6. Issue a Preliminary Injunction that enjoins the United States, the Secretary of Interior, and the Assistant Secretary for Indian Affairs, and their successors in office, from:

a. Approving any class III gaming compact under the IGRA for gaming on Comanche Allotment 2329 unless such gaming is to be conducted with the consent of the Comanche Nation and consistent with the relevant provisions of Comanche Nation law until the final resolution of this litigation;

b. Publishing in the Federal Register of the Class III Gaming Compact (whether approved or deemed approved by the Secretary of the Interior) between the State of Oklahoma and the Fort Sill Apache Tribe of Oklahoma until the final resolution of this litigation; and

7. Grant Plaintiff such further relief as deemed just and proper.

Respectfully submitted,

s/ William R. Norman, Jr.

William R. Norman, Jr., OBA #14919
Hobbs, Straus, Dean & Walker, LLP
117 Park Avenue, 2nd Floor
Oklahoma City, OK 73102
Telephone: (405) 602-9425
Facsimile: (405) 602-9426
Email: william@hsdwok.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served this
31st day of March, 2005, via facsimile:

Robert McCampbell United States Attorney for the Western District of Oklahoma 210 West Park Avenue, Suite 400 Oklahoma City, OK 73102	Alberto Gonzales, Attorney General U.S. Department of Justice Office of the Attorney General Attn: Service of Process 950 Pennsylvania Avenue, NW Washington, DC 20004
Gale A. Norton Secretary of the Interior 1849 "C" Street NW 6159 MIB Washington, DC 20240	United States Department of Interior Attn: James Cason, Assistant Secretary 1849 "C" Street NW Washington, DC 20240

s/ William R. Norman Jr.

William R. Norman, Jr.